



IDAHO DEPARTMENT OF CORRECTION

"To promote a safer Idaho by reducing recidivism"

C. L. "Butch" Otter
Governor

Brent D. Reinke
Director

November 20, 2014

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WC Docket No 12-375, FCC 13-113, FCC 14-158
Further Notice of Proposed Rulemaking for Inmate Calling Services (ICS)

Dear Ms. Dortch:

The Idaho Department of Correction (IDOC) supports the adoption of reasonable reform for inmate phone calls and supports the spirit of the Federal Communications Commission's (FCC) efforts in this regard. The IDOC's mission is to "promote a safer Idaho by reducing recidivism" and the IDOC unequivocally agrees that regular and meaningful contact with friends and family members is vital to inmate well-being while incarcerated and improves their opportunity for success in the community upon release.

The IDOC is providing response to proposed rules to create a more complete picture of the role inmate calling platforms play in the correctional environment and the financial impact these services have on already stretched budgets.

Support of Per Minute Call Rates

The IDOC supports meaningful reform with reasonable per minute rates but believes that the \$0.07/minute rate currently being considered is too low to ensure that ICS providers can continue to offer a quality service and provide, improve and maintain the necessary security and investigative tools required. Further, IDOC believes that the unitary, complex and tiered rate systems as presently proposed are confusing and problematic. Using inmate populations to determine applicable tier rates is not a sound cost indicator. Costs for providing services are more generally dependent on the location, age and infrastructure of the facility than the population base.

The IDOC supports a simple per minute rate structure that allows flexibility for the agencies and ICS providers to construct a program offering that best fits the needs of the agency, ICS provider and end users. The program offering must be able to factor in the geographic / demographic area, age, condition and infrastructure of the facility(ies), and other special or unique needs, when developing a per minute rate structure.

In an effort to meet the requirements of the FCC's efforts for ICS reform, the IDOC recently entered into a new agreement for inmate phone services. This new agreement included significant changes in the call rate structure and fees that are charged to Idaho inmates and their family and friends, provided updated systems and equipment, and enhanced the overall services available. As of October 1, 2014, Idaho inmates and their family and friends pay a flat \$0.14 per minute, plus applicable regulatory taxes, for all domestic calls regardless of the calling method and there are no surcharges or connection fees of any kind charged to the inmate or the called party.

In addition, the IDOC, through its new ICS provider, now offers voicemail services for inmates. Family and friends of inmates can call in and leave a message for an inmate. A voicemail costs \$1.00 to the friend or family for a message that can last up to two minutes and the Inmate retrieves their messages free

of charge. The response to this enhanced service has been extremely positive. In the first 30 days of the new ICS platform, IDOC inmates received 744 messages from friends and family.

It is IDOC's experience that under contracts with flat fees per call, if a call is dropped for any reason other than a glitch or issue with the ICS system, the paying party (inmate or the called party) is not generally reimbursed for the time lost. They pay for the entire call even though it may have ended prematurely. With a simple fixed per minute fee structure, inmates and their family and friends are only charged for actual talk time, thus creating a better overall value and experience for all of the users of the inmate phone system because they are not financially disadvantaged when technology on either side of the call fails.

IDOC Impact from the 2013 Ruling

In the October 22, 2014 FNPRM, the FCC quotes several studies and reports indicating that the 2013 interstate reform was successful in reducing calling rates to inmates and the public. This was not the case in Idaho. With the implementation of the interstate cap of \$0.21/minute, families and friends in Idaho went from paying \$3.60 plus taxes for a prepaid 30 minute interstate phone call to \$6.30 plus taxes when the prior ICS provider opted to impose the maximum allowed rate for interstate calls.

Under the new contract, implemented October 1, 2014, the overall rate dropped to \$4.20 for a 30 minute call, which is still higher than the rate before the 2013 FCC changes but still well within safe harbor.

Ancillary Fees

The IDOC recognizes that high ancillary fees can be problematic and encourages the FCC's efforts for a thorough review of such fees.

Under IDOC contracts, the ICS provider is required to provide staffed call centers and web-based access to the public so they can set up and fund accounts. The ICS provider is required to accept most forms of payment including major debit and credit cards brands for which the ICS provider is often charged a fee for accepting. It is IDOC's position that these represent legitimate costs that the vendor should be able to recoup through reasonable ancillary fees. The IDOC believes that a soundly managed and financially stable ICS provider with a reasonable per minute fee structure can be profitable and provide the robust ICS platform required while utilizing a simple ancillary fee structure.

Financial Support to Correctional Agencies

The IDOC disagrees with the FCC's assertion that commissions "are the primary reason ICS rates are unjust and unreasonable"¹ or that such financial support unilaterally drives up the cost of calls to inmates and their family and friends. Rather, call rates are the result of a combination of factors, including but not limited to, development, implementation, financial risk, hard equipment costs and maintenance, commission payments, profit needs for private companies as well as regulatory fees and taxes.

It is understood that the universal service fund fees, various state sales taxes and other such regulatory charges also add to the costs borne by all who utilize the ICS. It is further recognized that such taxes and fees, once paid, are not necessarily used to pay for, directly contribute to or otherwise associated with the actual costs of providing phone services to inmates or their families and friends. Many such fees and taxes are subsequently used by governing bodies to pay for other services and access, such as 9-1-1 services which inmates are unable to utilize. We point this out only to emphasize that that commissions and in-kind payments to correctional agencies can be utilized effectively and efficiently for the greater good of the inmate populations they serve while not being tied directly to the actual cost of providing inmate phone calls.

¹ FCC Second Further Notice of Proposed Rulemaking, dated October 22, 2014, section III, subpart 1, subsection 21, page 11

The IDOC deposits phone commissions received into an inmate management fund (IMF) where such funds are used for the benefit of inmates through a variety of expenditures such as purchases of books, recreational supplies and equipment, copying costs and supplies for inmate legal services, and educational offerings. This account also funds 27.5 staff in positions directly supporting inmate services such as librarians, inmate-accessible paralegals, religious services, teachers, and contract officers. Phone commissions for September 2013 through August 2014 added more than \$1,500,000.00 to the IMF. If commissions and similar in-kind payments cannot be obtained as part of various competitive processes, then many of the services and opportunities available to inmates today would likely be discontinued for lack of funding.

Phone access is a privilege, and while the IDOC strongly believes that such offerings vastly improve an inmate's well-being while incarcerated and furthers their chances of successful reintegration into society upon release, if the opportunity to receive commissions or in-kind payments is restricted through the proposed ruling, current budgets would not be able to absorb the cost and the IDOC would be unable to continue to offer the same variety of the services and opportunities as are available today.

In the spirit of supporting and adopting meaningful reform the IDOC, with the inception of its new ICS contract, shifted to a financial platform based solely on Idaho's average daily population (ADP) across all facilities. The IDOC believes that this shift does not provide an incentive to the ICS provider to raise rates but rather this fixed fee platform allows the ICS provider to offer pricing structures and additional features at better overall rates because the ICS provider does not have to plan for the recovery of future estimated commissions or additional commissions as new services and features are deployed.

Functional and Effective Solicitations

The IDOC believes that the key to reform will be a shift in how agencies bid for ICS services, including a clear understanding of the vast variety of services, features, and functionality available beyond basic telephone services.

The IDOC put this belief into practice with its 2014 solicitation for ICS services when the IDOC completely revamped how it structured the solicitation proposal for the new ICS. Under the recently concluded Concession Services Request (CSR), the IDOC utilized a weighted scoring methodology to determine the top three respondents with 60% weighted on the best technology aspect of the proposed technology solution and 40% on the lowest rates / pricing aspect of the proposed solution.

The top 3 respondents each showed by their bid response that they could support the IDOC's efforts and goals. They were then required to demonstrate their technology solution to a variety of IDOC staff members who individually scored each vendor based on the demonstration. The vendor with the highest demonstration score was the vendor selected. The agency did not score nor evaluate any financial payment to the agency. Instead the vendor community was informed that the IDOC would charge a flat per inmate fee per month based on ADP thereby substantially reducing any tendency by the ICS community to inflate financial offerings, increase rates or charge unreasonable ancillary charges. It worked.

Increased Access for Less Money

The IDOC has seen a substantial shift in ICS usage and the amount of money expended by inmates and their families in the first 30 days of implementation under the new ICS system, pricing², and rate structure. The completed calls nearly doubled, but the cost to inmates and their families actually went down slightly.

² These dollars do not include regulatory fees and taxes which are consistent between the prior and current ICS providers. The dollars provided are based on actual completed call counts for which a charge was incurred and contractual costs only.

Prior Contract – Sept 26 through Oct 25, 2013³ Completed Calls⁴/Cost

Debit (\$3.40/call)	26,875 / \$91,375
Prepaid (\$3.60/call)	28,735 / \$103,446
Collect (\$3.80/call)	5,675 / \$21,565
TOTAL:	61,285 completed calls / \$216,406.00 in costs paid by inmates and their families and friends

New Contract - October 1-30⁵, 2014 Completed Calls⁶ (minutes)/Cost

Debit (\$0.14/min)	42,644 (523,619.70 min) / \$73,306.76
Prepaid (\$0.14/min)	56,833 (875,986.80 min) / \$122,638.80
Collect (\$0.14/min)	7267 (129,383.40 min) / \$18,113.67
TOTAL⁷:	106,744 completed calls (1,528,990.00 min) / \$214,059.23 in costs paid by inmates and their families and friends

Under the new ICS contract, our inmates have completed 45,459 more contacts⁸ in the first 30 days of the contract. If we apply the prior contract rates to the current call volume, the change in ICS providers and the revamped pricing model saved our inmates and their families over \$163,000.00 in just the first 30 days. The IDOC is extremely pleased to see the increased number of meaningful family connections being made at a reduced cost for the inmates and their families and believes that this model supports the spirit of the FCC's efforts.

Successful Transition Where All Parties Benefit

The IDOC again encourages restraint in further implementation of the drastic reforms currently being considered and strongly supports a more thoughtful and thorough review process that works to ensure that all parties can realize benefits under any such reform. The IDOC again points out the success of the Idaho / CenturyLink contractual arrangement where families and inmates have realized a tangible reduction in their calling costs in the first 30 days of a contract with an increased number of contacts, showing that all stakeholders – inmates, family and friends, the ICS provider, and the IDOC – can each realize lasting benefits.

The IDOC has worked very hard with its ICS provider to construct an ICS offering that fulfills the spirit of the FCC's efforts to provide increased access to meaningful contact with family and friends at a fair and equitable price all while maintaining the security protocols and services required by the IDOC and the continuation of the needed funding source. The IDOC supports the FCC's efforts for reform but also strongly encourages members to consider the success of the Idaho program and how future rulemakings can be constructed to allow all parties to benefit.

Safety First

Unlike a public pay phone or other public telephone services, ICS platforms for correctional agencies are required to provide more than the ability of an inmate to place a phone call. ICS platforms for

³ Inmates were advised of the upcoming change in ICS providers beginning in July, 2014, so we used as close of a corresponding time frame as possible from the prior year to account for any shift in inmate calling patterns due to the pending change in ICS providers in 2014.

⁴ For simplicity, we did not include four community corrections facilities, each consisting of 100 inmates or fewer, as community correction facility calling rates varied from main prison facilities under prior contracts.

⁵ Used only 30 days in October (vs. 31) so we could compare 30 days to 30 days.

⁶ To ensure an accurate comparison, we did not include four community corrections facilities, each consisting of 100 inmates or fewer even though their rates under the new contract match those of the main prison facilities.

⁷ Includes Debit, Prepaid and Collect completed call volume for prison facilities only where inmates or an outside third party was charged.

⁸ Excludes any incomplete call or phone call that was not paid for by the inmate or an outside third party.

correctional agencies require unique back-end security protocols, investigative tools and other features that correctional agencies use to deter, investigate and prosecute crimes that occur within facilities and in the community.

ICS platforms must provide correctional agencies with the ability to intercept information that is critical to the safety of inmates, staff, the facility and the public, as well as the ability to evaluate and analyze information to identify potential criminal connections and associations between inmates and between inmates and members of the public. The various investigative, analytical, and mapping tools required to ensure security also necessitate a greater cost to the ICS provider to develop, deploy and maintain the ICS platforms.

It is also important to recognize that as technology continues to advance, ICS providers must also continuously develop more efficient and effective security features. This includes ensuring the technology available to agencies like IDOC is able to identify and prevent actions taken by inmates and members of the public to bypass, circumvent or disable current security features and protocols.

A well-functioning and state-of-the-art ICS platform promotes the IDOC's ability to ensure facility safety and security, assists in the detection and suppression of criminal activities, encourages inmate self-care, self-reliance and personal accountability, and promotes overall inmate well-being. While the IDOC recognizes the benefits of providing phone services to inmates, safety and security of facilities is the first priority. The IDOC again stresses the need to balance required security features that directly impact safety and security with the need for regular and meaningful community contact at a fair and equitable cost.

Expenses and Costs

As requested in the October 22, 2014 FNPRM, the IDOC is presently compiling information regarding costs and expenses incurred by the IDOC as it relates to the day to day operations of the inmate phone system.

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this letter is being filed in the appropriate docket.

Thank you for your time and consideration in this matter.

Sincerely,



Brent D. Reinke, Director
Idaho Department of Correction